



**Office of Audits
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TO: ROB HEWELL
REGIONAL COMMISSIONER
PUBLIC BUILDINGS SERVICE
MID-ATLANTIC REGION (3P)

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SUBJECT: Recovery Act Memorandum-Occupancy Agreement for the
Social Security Administration National Support Center
Review of PBS's Reimbursable Work Authorization Projects Funded
By the American Recovery and Reinvestment Act of 2009
Audit Memorandum Number A090169-10

As part of our oversight of the Reimbursable Work Authorizations for the American Recovery and Reinvestment Act (Recovery Act) projects, we identified an issue on the Social Security Administration (SSA) National Support Center project¹ that warrants your attention. Specifically, the project has entered into the design and construction phase without an Occupancy Agreement to detail the financial roles and responsibilities for all parties, including the responsibility for delays and increased costs.

An Occupancy Agreement is needed to define the roles and responsibilities for the project

The General Services Administration (GSA) has purchased the site and awarded the design/build construction contract for the SSA National Support Center project. However, to date, GSA has yet to establish an Occupancy Agreement or other formal document which details GSA's and SSA's financial responsibilities for the project.

¹ The Recovery Act provided SSA with \$500 million for the replacement of the National Computer Center and technology information costs associated with such a center. The new National Support Center will replace the current center which was constructed in the late 1970s. Per the *GSA Recovery Act Weekly Financial and Activity Report* for the week ending January 20, 2012, SSA has authorized GSA to use \$385,881,201 on the project. GSA has obligated \$218,627,484 of this amount for site acquisition, the design/build construction contract, and other services.

The Public Buildings Service Project Management Guide states that the Occupancy Agreement is one of the most important project documents to a customer. Per the guide, it is designed to provide flexibility and choice, and documents the customer's requirements as they evolve. Any project should have multiple iterations of the Occupancy Agreement, starting with a draft Occupancy Agreement prepared when the project is initiated. GSA then updates the Occupancy Agreement as the project develops.

One important aspect of an Occupancy Agreement is that it incorporates the responsibilities of both GSA and the customer agency for the design and construction schedule into the agreement. For example, the Occupancy Agreement outlines the customer agency's responsibility to pay for delays or increased costs caused by the tenant's failure to meet the review and approval times in the design and construction schedule or changes they may make to a project's scope. Likewise, it also includes GSA's responsibility for any GSA caused delays.

The Occupancy Agreement also specifies future rent responsibilities. Under the Property Act, GSA is authorized and directed to charge a tenant rent that approximates commercial rates even when the construction funds are provided by another agency's appropriations. By documenting this understanding, as well as the responsibility for any future financial obligations, the Occupancy Agreement assists the agencies in planning and budgeting in the future.

Conclusion

On any project, the roles and responsibilities of the parties involved need to be defined to ensure that they are understood, especially with regard to any financial obligations, both during the project and after it is completed. Given this, GSA should establish an Occupancy Agreement with SSA for the duration of the National Support Center project and for its occupancy after the project is completed.

Management Comments

The Public Buildings Service commented:

We concur that an Occupancy Agreement (OA) is a necessary, important document for the National Support Center (NSC) project. An iterative series of OAs will provide the business terms and financial specifics of the space assignment related to the NSC. At this time, we are working to develop a draft OA to share with the Social Security Administration (SSA). As the project evolves in execution, we will monitor developments and update the OA so that it

accurately reflects the parties' understanding of the business terms and financial specifics of the transaction.

We also have documented financial terms of this project via reimbursable work authorizations (RWAs). The RWAs, OAs and other transactional documents detail key elements of the relationship between GSA and SSA on this project.

We plan to develop a Memorandum of Understanding (MOU) documenting agency roles and responsibilities for the NSC project. Rather than addressing these concepts in the more occupancy-focused OA, a MOU will allow the parties to address general details of project execution in a high level document.

I would like to thank you and your staff for your assistance during this review. If you have any questions regarding this memorandum, please contact me or any member of the audit team at the following:

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